

EXHIBIT Q

JO- 000802

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
PEOPLE OF THE STATE OF NEW YORK

- v. -

AFFIDAVIT

JOHN O'HARA,

Defendant.
-----X

STATE OF NEW YORK)
 : s.s.:
COUNTY OF NEW YORK)

CHRISTOPHER KETCHAM, being duly sworn, deposes and says:

1. I am at least 18 years of age and reside at 24 Sidney Place, Brooklyn, New York 11201.

2. In January, 2003, I was contracted to research and write an article for Harper's Magazine about the unique criminal prosecution of defendant John O'Hara. In the past, I have written articles for Salon, Men's Journal and many other magazines.

3. Over a seven month period from January, 2003 to July, 2003, I interviewed dozens of individuals pertinent to the O'Hara case. The article, titled "Meet the New Boss: Man vs. Machine Politics in Brooklyn," was published in the December 2004 issue of Harper's Magazine.

4. I uncovered numerous facts indicating to me that the scope and initiation of the case against John O'Hara was selective in its nature and with an ill purpose. It quickly became clear that the prosecution of John O'Hara by the office of Brooklyn District

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Attorney Charles J. Hynes was a favor to O'Hara's former political opponent, New York State Assemblyman James F. Brennan. During the late 1980s and early 1990s, O'Hara had repeatedly opposed Assemblyman Brennan in races for office.

5. The facts are as follows:

- (a) In June 2003, I interviewed by telephone Officer Christopher G. Cincotta, a retired detective of the 66th Precinct in Brooklyn. In 1996, Mr. Cincotta was assigned to surveil John O'Hara under the supervision of Detective Allan Presser of the Brooklyn District Attorney's Office. Mr. Cincotta at first only vaguely recalled the O'Hara case. However, when I mentioned the name of Assemblyman Jim Brennan, Mr. Cincotta said, "That's how we got involved." Assemblyman Brennan apparently was calling the 66th Precinct repeatedly.
- (b) In another telephone interview, a former staffer to Assemblyman Brennan who spoke anonymously told me that: "If there was anybody who *should* have been selectively prosecuted, it was John Kennedy O'Hara. Clearly, John O'Hara deserved some form of street justice; that's what a lot of people wanted to mete out. Instead he was selectively prosecuted." The former Brennan staffer added that he believed John O'Hara was prosecuted by District Attorney Hynes on these charges because he "touched a political nerve" and was "an irritant."
- (c) Kathleen Vetere, a political activist in Brooklyn, told me in a telephone interview that in June 1994 she met with Assemblyman Brennan's counsel, John W. Carroll. Ms. Vetere told me that John Carroll said, "We're not gonna stop pursuing this guy until the day we see him disbarred. Not only is this man not getting on the ballot. You'll live to see him disbarred."
- (d) On June 12, 2003, at the offices of the Brooklyn District Attorney, I interviewed Assistant District Attorney John P. O'Mara, the prosecuting attorney in the O'Hara case and Jerry Schmetterer, spokesman for District Attorney Hynes. When asked what action initiated the prosecution of John O'Hara, Mr. O'Mara replied, in part, "This was 'particularly egregious conduct' and because 'He was not deterred by the civil actions against him.'" O'Mara was referring, I assumed, to the numerous civil suits brought against O'Hara over the years by Assemblyman Brennan, who hoped to have O'Hara removed from the ballot. I requested documentation of the complaint which


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initiated the O'Hara case. Mr. O'Mara provided me with an affirmation/affidavit from John W. Carroll (Assemblyman Brennan's counsel) requesting the unsealing of a 1994 civil election case against John O'Hara that was deemed to be pivotal evidence in securing a grand jury indictment against the defendant.

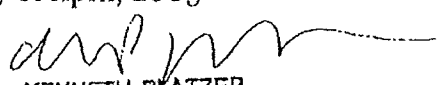
When asked if Assemblyman James Brennan contacted him or District Attorney Charles Hynes, Mr. O'Mara told me that when the jury returned a guilty verdict in the first trial, he personally called Assemblyman Brennan to inform him of the result because Brennan was "interested" in the case. Mr. O'Mara also noted that in the investigatory run-up to the O'Hara trial, he spoke with Brennan over the phone "a couple of times." Mr. O'Mara said, "[Brennan] was interested in the outcome of the case. He was in my office once during the investigation. He wanted to know what happened." When asked about the rarity of the O'Hara case, Mr. O'Mara told me, "This is the first one" of its kind.

During the interview, I also inquired about allegations by defendant O'Hara that prosecutor O'Mara had knowingly presented a false argument during John O'Hara's first trial. This false evidence, according to defendant O'Hara, consisted of O'Mara's claim to the jury that defendant O'Hara was twice taken off an election ballot for residence fraud. When specifically asked about this, Mr. O'Mara admitted, "I may have misspoken a little bit about that."

During the interview I further inquired of Assistant District Attorney O'Mara regarding surveillance of Mr. O'Mara conducted by the Brooklyn District Attorney's Office. O'Mara adamantly denied that such surveillance had been conducted other than perhaps observing where his car was parked. In support, O'Mara argued that such continuous surveillance would have been much too costly an undertaking for the office.


CHRISTOPHER KETCHAM

Sworn to before me this
18th day of April, 2005


KENNETH PLATZER
Notary Public, State of New York
No. 0822587
Qualified In New York County
Commission Expires August 31, 2008